

November 22, 2017

Mr. Henry Leskinen
Eco-Science Professionals Inc.
P O Box 5006
Glen Arm MD 21057

Re: Perry Hall Ridge
Plumer Ave. Nottingham MD 21236
Forest Conservation Variance
Tracking # 05-17-2570

Dear Mr. Leskinen:

A request for a variance from Baltimore County's Forest Conservation Law for the referenced property was received by the Department of Environmental Protection and Sustainability (EPS) on September 29, 2017. The request proposes to remove 12 of 18 specimen trees on the property in order to construct a 21-lot residential subdivision. This includes the following 9 trees in fair to good condition with diameters at breast height noted (DBH): 3 *Acer saccharinum* (32 to 43-inch), *Juniper sp.* (35-inch), *Quercus alba* (37-inch), *Quercus falcata* (34-inch), 2 *Quercus prinus* (33-36-inch), and a *Quercus rubra* (30-inch). The 3 additional trees proposed for removal are in poor condition and include a 30-inch *Quercus coccinea*, a 38-inch *Quercus falcata*, and a 41-inch *Quercus velutina*. All but 5 of these trees are located within forest. Of the 6 specimen trees to be retained, 2 are within the required forest buffer, and 2 others are within additional forest to be retained. These natural resources are associated with a Use IV unnamed tributary to White Marsh Run.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant proposes to create 21 residential lots. Due to site constraints and infrastructure requirements, this subdivision could not be constructed as proposed without removal of specimen trees. However, 2 single family dwellings and other residential uses currently exist and the petitioner would not be deprived of all beneficial use of his property. Therefore, this criterion is not met.

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The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. This variance request is due to a unique situation concerning the location of the specimen trees on the referenced property in relation to the proposed residential development and the infrastructure requirements. The development proposed is based on these unique conditions of the property, and not from general conditions of the neighborhood. Therefore, this criterion is met.

The third criterion (Subsection 33-6-116 (d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The development property contains 2 dwellings, several outbuildings, lawn areas with scattered trees, disturbed forest areas, and higher priority forest area to the southeast. Forest buffer, forest conservation retention, and the retention of 6 specimen trees will be required on this property. It is surrounded by residential subdivisions to the east and southeast, and a club facility to the west. The proposed retention of forest and a forest buffer on the southern portion of this development would connect to forest currently retained on adjacent properties. Therefore, the proposed residential development of the site would be compatible with the neighborhood, and this criterion is met.

The fourth criterion (Subsection 33-6-116 (e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. Forest buffer non-disturbance areas to protect streams and wetlands are required, and retention of existing forest on-site is required to meet forest conservation requirements. Also, stormwater management is being provided for the development in accordance with current County regulations. Specimen tree mitigation must be met by payment of a fee-in-lieu to the Baltimore County Forest Conservation Fund, pending a review of the forest conservation plan by this office. Based on this, this criterion is met.

The fifth criterion (Subsection 33-6-116 (e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance, which is the result of actions taken by the petitioner. This request is based on the location of specimen trees in relation to the proposed site improvements, and there has been no work conducted on the property that would have required this request. Therefore, this criterion is met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. The development must meet all forest conservation requirements, including retention of priority forest within and adjacent to forest buffer areas on the property. Grading has been adjusted to minimize impacts to 3 specimen tree root zones on-site and for a root zone of an off-site specimen tree in order to protect and retain these trees. In addition, mitigation for specimen trees approved for removal must be met by payment of a fee-in-lieu to the Baltimore County Forest Conservation Fund. Therefore, this criterion is met.

Based upon our review, this Department finds that the required variance criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

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1. Mitigation for the removal of the 5 specimen trees in fair to good condition that are located outside the forest must be met by payment of a fee-in-lieu to the Baltimore County Forest Conservation Fund. The final forest conservation plan (FCP) for this project must be submitted and approved by EPS prior to issuance of any permits. The approved forest conservation worksheet, and all required notes, including information concerning the protection of the specimen trees to be retained must be included in this plan.
2. On all project plans, label specimen trees as “retain” or “remove” and add the following note:

A forest conservation special variance was granted by Baltimore County Department of Environmental Protection and Sustainability on November 17, 2017 to allow for the removal of 12 specimen trees on this project site. Mitigation was provided by meeting all forest conservation requirements as outlined on the forest conservation plan for the project, including a fee-in-lieu for the 5 specimen trees to be removed outside the existing forest. If any specimen tree shown on the plan “to remain” is proposed to be removed, special variance approval or written authorization must first be obtained from the Department of Environmental Protection & Sustainability.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

Please have the property owner sign the statement at the end of this letter and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Paul Dennis at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

DVL/pad

c: Marian Honeczy MDDNR

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County Forest Conservation Law.

Property Owner(s)

Date

Printed Name(s)

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